



**Network Cooperatives Savings and Credit Society Limited & 4 others v Wuasin & another
(Sued as the Personal Representative of the Estate of Shirim ole Roloruasi Kasenji) & 4 others
(Environment & Land Case 964 of 2017) [2024] KEELC 13630 (KLR) (5 December 2024) (Ruling)**

Neutral citation: [2024] KEELC 13630 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE 964 OF 2017
LC KOMINGOI, J
DECEMBER 5, 2024**

BETWEEN

**NETWORK COOPERATIVES SAVINGS AND CREDIT SOCIETY
LIMITED 1ST PLAINTIFF
DAU INVESTMENTS COMPANY LIMITED 2ND PLAINTIFF
LENIN KIMUTAI 3RD PLAINTIFF
JOSHUA WACHIRA 4TH PLAINTIFF
ALOISE MWANGOMBE 5TH PLAINTIFF**

AND

**KONE SHIRIM OLOO WUASIN & NOONKAMURIAK ENE SHIRIM (SUED
AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF SHIRIM OLE
ROLORUASI KASENJI) 1ST DEFENDANT
CAROLINE JEMUTAI MUTUNKEI & NASERIAN MUTUNKEI (SUED AS THE
PERSONAL REPRESENTATIVE OF THE ESTATE OF JEREMIAH MUTUNKEI
KIPONYI) 2ND DEFENDANT
KAGUMO DIARIES LIMITED 3RD DEFENDANT
THE PRINCIPAL LANDS REGISTRAR, KAJIADO 4TH DEFENDANT
EQUITY BANK OF KENYA LIMITED 5TH DEFENDANT**

RULING

1. This is the Notice of Motion dated 12th June 2024 brought under; (Section (s) 1A, 1B & 3A of the *Civil Procedure Act*, Section and Order 51, rule 1 of the *Civil Procedure Rules*, 2010)



2. It seeks Orders;
 1. Spent.
 2. That this honourable Court be pleased to direct that the authenticity of the Title deed for land parcel LRNO. Kajiado/Kitengela/2085 issued to Shirim Ole Roloruasi Kasenji and Jeremiah Mutunkei Kiponyi on 31.07.1989 and bearing the number GPK-L1124-90-200,000 be determined by the Government Printer and the report thereof be filed in court.
 3. That upon granting prayer Number 2 above and to enable carrying out the exercises described in the said prayer, this honourable court be pleased to issue orders directing the County Land Registrar Kajiado to furnish to the Government Printer with the said original Title deed for the said LR Number Kajiado/Kitengela/2085 bearing the number GPK-L1124-90-200,000.
 4. That costs be provided for.
3. The grounds are on the face of the Application and are set out in paragraphs 1 to 7.
4. The Application is supported by the affidavit of Alfonse Kyalo Nzula a representative of the 1st Plaintiff, Application sworn on the 12th June 2024.
5. The Application is opposed. There are grounds of opposition by the 1st Defendant. There is also a Replying Affidavit sworn by the Morinka Murianki Ene Shirim the 2nd Defendant/Respondent on the 22nd July 2024.
6. There is also a Replying Affidavit sworn by Martin Mamicha Mugi, the director of the 3rd Defendant/Respondent sworn on the 25th June 2024.
7. There are also grounds of opposition filed by the 5th Defendant.
8. It appears the 4th Defendant/Respondent did not file any response.
9. The Notice of Motion was canvassed by way of written submissions.
10. I have considered the Notice of Motion, the affidavit in support, the response thereto, the written submissions and the authorities cited. The issue for determination is whether this Application is merited.
11. It is the 1st Plaintiff's prayer that the authenticity of title deed for Land Parcel Number, Kajiado/Kitengela/2085 issued to Shirim Ole Roloruasi Kasenji and Jeremiah Mutunkei Kipoonyi on 31st July 1989 be determined by the Government Printer.
12. This prayer is opposed by all the Defendants/Respondents on the grounds that the Land Registrar is the custodian of all Government records pertaining to the property hence only the Land Registrar, who is a party in this case can confirm the title emanated from their office.
13. I agree with the Defendant/Respondents submission that this Application amounts to a fishing by the 1st Plaintiff who has not pleaded fraud against the 1st and the 2nd Defendants. That our system being an adversarial system maintains that a party ought to plead and prove his/her case.
14. The upshot of the matter is that I find no merit in this Application and the same is dismissed with costs to the 1st to 3rd, 5th Defendants.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 5TH DAY OF DECEMBER 2024.



L. KOMINGOI

JUDGE.

In the Presence of:

Mr. Nzaku for the 1st Plaintiff.

Mr. Kinaro for the 2nd Plaintiff.

Ms. Irungu for the 1st Defendant.

N/A for the 2nd Defendant.

Mr. Odhiambo for the 3rd Defendant.

Ms. Nyawira for Ms. Kerubo for the 4th Defendant.

N/A for the 5th Defendant.

Court Assistant – Mutisya.

